

**ONE HUNDRED AND NINTH LEGISLATIVE DAY
THURSDAY, APRIL 24, 2003**

House of Representatives

The House convened at 9:30 a.m., the Speaker in the Chair.

Roll call showed 61 members present.

Absent and excused -- Black, Bradford(Larsen), Collins, Ellsworth, Lake, Langhorst, Naccarato(Alldredge), Sali, Schaefer. Total -- 9.

Total -- 70.

Prayer was offered by Chaplain Jim Hardenbrook.

The Pledge of Allegiance was led by Kristina Uhlenkott, Page.

Approval of Journal

April 24, 2003

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have read and approved the House Journal of the One Hundred and Eighth Legislative Day and recommend that same be adopted as corrected.

CLARK, Vice Chairman

Mr. Clark moved that the report be adopted. Seconded by Mrs. Boe. Report adopted.

**Consideration of Messages from the
Governor and the Senate**

THE OFFICE OF THE GOVERNOR
EXECUTIVE DEPARTMENT
BOISE, IDAHO

CERTIFICATE OF APPOINTMENT

KNOW ALL MEN, by these Presents that Debbie S. Field, State Representative, District 18, House Seat A, State of Idaho, pursuant to the provisions of Section 59-917, Idaho Code, has nominated Mitchell E. Toryanski, of Boise, Idaho, to perform the duties of this office temporarily as Acting State Representative.

NOW, THEREFORE, I, DIRK A. KEMPTHORNE, Governor of the State of Idaho, by virtue of the authority vested in me by Section 59-917, Idaho Code, do hereby appoint Mitchell E. Toryanski, Acting State Representative, District 18, House Seat A, State of Idaho, for a term commencing on April 24, 2003, and continuing until the incumbent shall resume the performance of the duties or a vacancy occurs in such office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho.

Done at Boise, the Capital of Idaho, this 23rd day of April in the year of our Lord two thousand and three, and of the Independence of the United States of America, the two hundred and twenty-seventh year.

/s/ DIRK A. KEMPTHORNE
Governor
/s/ BEN YSURSA
Secretary of State

The Certificate of Appointment was ordered filed in the Office of the Chief Clerk.

The Speaker announced the oath of office had previously been administered to Mr. Toryanski.

THE OFFICE OF THE GOVERNOR
EXECUTIVE DEPARTMENT
BOISE, IDAHO

CERTIFICATE OF APPOINTMENT

KNOW ALL MEN, by these Presents that Douglas R. Jones, State Representative, District 23, House Seat B, State of Idaho, pursuant to the provisions of Section 59-917, Idaho Code, has nominated Janet Neel, of Buhl, Idaho, to perform the duties of this office temporarily as Acting State Representative.

NOW, THEREFORE, I, DIRK A. KEMPTHORNE, Governor of the State of Idaho, by virtue of the authority vested in me by Section 59-917, Idaho Code, do hereby appoint Janet Neel, Acting State Representative, District 23, House Seat B, State of Idaho, for a term commencing on April 24, 2003, and continuing until the incumbent shall resume the performance of the duties or a vacancy occurs in such office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho.

Done at Boise, the Capital of Idaho, this 23rd day of April in the year of our Lord two thousand and three, and of the Independence of the United States of America, the two hundred and twenty-seventh year.

/s/ DIRK A. KEMPTHORNE
Governor
/s/ BEN YSURSA
Secretary of State

The Certificate of Appointment was ordered filed in the Office of the Chief Clerk.

The Speaker announced the oath of office had previously been administered to Ms. Neel.

OFFICE OF THE GOVERNOR
Boise

April 23, 2003

The Honorable Bruce Newcomb
Speaker of the House

Dear Mr. Speaker:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following House Bills, to wit:

H 374, as amended in the Senate, **H 386**, as amended, **H 392**, and **H 395**

Very truly yours,
/s/ DIRK A. KEMPTHORNE
Governor

OFFICE OF THE GOVERNOR
Boise

April 23, 2003

The Honorable Bruce Newcomb
Speaker of the House

Dear Mr. Speaker:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following House Bill, to wit:

H 391

House Bill **391** amends Idaho's existing smoke management program to provide that the primary enforcement for the program will now rest exclusively with the Idaho Department of Agriculture.

The bill also provides significant penalties for any violation of the program and affords a legal safe harbor if the participant in the smoke management program complies with state law. This legislation does not, however, eliminate or degrade any Clean Air Act monitoring or other approved authority of the Department of Environmental Quality.

House Bill **391** is evidence of significant progress during the past year provided enhanced enforcement authority for a practice that should appropriately be regulated by the Department of Agriculture and also satisfies a requirement for a more significant enforcement mechanism for this state program. Indeed, many of the recent suggestions proposed by the United States Environmental Protection Agency Region 10 Administrator have been included in this legislation.

I am satisfied that significantly expanding the scope of Idaho's smoke management program to all of the North Idaho counties satisfies a concern that this legislation could be invalid "local or special" legislation under article 3, section 19 of the Idaho Constitution. As noted in the legislative intent, the unique geographical and topographical characteristics of North Idaho (which are very different from Southern Idaho), in addition to the need for certain crop rotations, clearly warrant the expansion of this program to these counties where this type of agricultural practice is prominent.

As all the parties to this controversy are aware, I have taken a vigorous and active role in attempting to resolve this issue in a fashion that both balances the need to preserve agriculture as a vital economic contributor to our local economies with the requirement that Idaho provide an appropriate regulatory infrastructure to manage the impacts of this agricultural practice

on our citizens.

My signature on House Bill **391** reaffirms my commitment to maintaining the integrity and credibility of Idaho's smoke management program.

I remain committed to working with Idahoans of all perspectives on this issue for a long-term outcome which simultaneously preserves economic livelihoods and quality of life in one of the most beautiful parts of our state.

Very truly yours,
/s/ DIRK A. KEMPTHORNE
Governor

April 23, 2003

Mr. Speaker:

I return herewith **H 412**, **H 413**, **H 414**, and **H 411** which have passed the Senate.

WOOD, Secretary

H 412, **H 413**, **H 414**, and **H 411** were referred to the Judiciary, Rules, and Administration Committee for enrolling.

Report of Standing Committees

H 390, held at the Desk April 2, 2003, was filed for second reading.

There being no objection, the House advanced to the Eighth Order of Business.

**Introduction, First Reading, and Reference
of Bills and Joint Resolutions**

**HOUSE BILL NO. 424
BY APPROPRIATIONS COMMITTEE
AN ACT**

RELATING TO A BALANCED STATE BUDGET FOR FISCAL YEAR 2003; STATING FINDINGS OF THE LEGISLATURE REGARDING THE FINANCIAL SITUATION FOR FISCAL YEAR 2003; TRANSFERRING MONEYS FROM THE PERMANENT BUILDING FUND TO THE GENERAL FUND; TRANSFERRING MONEYS FROM THE IDAHO MILLENNIUM FUND TO THE IDAHO MILLENNIUM INCOME FUND FOR CERTAIN EXPENDITURES IN FISCAL YEAR 2003; TRANSFERRING MONEYS FROM THE IDAHO MILLENNIUM FUND TO THE IDAHO MILLENNIUM INCOME FUND FOR CERTAIN EXPENDITURES IN FISCAL YEAR 2004; TRANSFERRING MONEYS FROM THE IDAHO MILLENNIUM FUND TO THE BUDGET STABILIZATION FUND TO THE GENERAL FUND; DIRECTING THE STATE TREASURER TO DEPOSIT THE NEXT TOBACCO SETTLEMENT PAYMENT INTO THE GENERAL FUND; TRANSFERRING MONEYS FROM THE RETAINED RISK MANAGEMENT FUND TO THE GENERAL FUND; TRANSFERRING CERTAIN MONEYS FROM THE FISH AND GAME BIG GAME SECONDARY

DEPREDAATION FUND TO THE GENERAL FUND; AND
DECLARING AN EMERGENCY.

HOUSE BILL NO. 425
BY APPROPRIATIONS COMMITTEE
AN ACT

RELATING TO APPROPRIATIONS; PROVIDING
LEGISLATIVE INTENT; TO PROVIDE A REDUCTION IN
THE APPROPRIATIONS TO THE VARIOUS STATE
AGENCIES, INSTITUTIONS AND ENTITIES FOR FISCAL
YEAR 2003; PROVIDING THAT THE PRESIDENT PRO
TEMPORE OF THE SENATE AND THE SPEAKER OF THE
HOUSE OF REPRESENTATIVES SHALL DIRECT THE
STATE CONTROLLER TO REDUCE THE FUNDS
TRANSFER TO THE LEGISLATIVE FUND; PROVIDING
DIRECTION TO THE BOARD OF EXAMINERS IN THE
EVENT OF A BUDGET SHORTFALL; AND DECLARING
AN EMERGENCY.

HOUSE BILL NO. 426
BY APPROPRIATIONS COMMITTEE
AN ACT

EXPRESSING LEGISLATIVE INTENT REGARDING
EMPLOYEE BENEFITS; AND PROVIDING ADDITIONAL
APPROPRIATIONS FOR VARIOUS DEPARTMENTS,
AGENCIES AND INSTITUTIONS FOR FISCAL YEAR 2004.

H 424, **H 425**, and **H 426** were introduced, read the first
time by title, and referred to the Judiciary, Rules, and
Administration Committee for printing.

There being no objection, the House advanced to the Eleventh
Order of Business.

Third Reading of Bills and Joint Resolutions

Mr. Denney asked unanimous consent that the remaining bills
on the Third Reading Calendar retain their places for one
Legislative Day. There being no objection, it was so ordered.

There being no objection, the House advanced to the
Sixteenth Order of Business.

Adjournment

Mr. Moyle moved that the House adjourn until 11:30 a.m.,
Friday, April 25, 2003. Seconded by Ms. Jaquet. Motion
carried.

Whereupon the Speaker declared the House adjourned at
10:30 a.m.

BRUCE NEWCOMB, Speaker

ATTEST:

PAMM JUKER, Chief Clerk